

STATE OF CALIFORNIA

PROPERTY TAX APPORTIONMENTS

CALENDAR YEAR 2000



KATHLEEN CONNELL
California State Controller

February 2001



KATHLEEN CONNELL
Controller of the State of California

February 23, 2001

**To the Members of the State Legislature
and the Citizens of California:**

I am pleased to present the *Property Tax Apportionments Report* for calendar year 2000. This report, prepared pursuant to *Government Code* Section 12468, is intended to help mitigate problems associated with the counties' apportionment and allocation of property tax revenues.

The audits completed by the State Controller's Office in 2000 found the audited counties to be generally in compliance with the legal requirements for the allocation of property tax revenues. However, this report notes specific problem areas relative to individual counties.

I hope you find the report informative and useful for future policy decisions.

Sincerely,

KATHLEEN CONNELL
State Controller

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Overview

Introduction

This report presents the results of nine audits of county property tax apportionments and allocations completed by the State Controller's Office in calendar year 2000. The counties audited were: Alpine, Marin, Modoc, Orange, Plumas, Sonoma, Stanislaus, Tehama, and Ventura. *Government Code* Section 12468 requires that such audits be conducted periodically for each county according to a prescribed schedule based on county population. The purpose of the audits is to help mitigate problems associated with property tax apportionment and allocation.

Except for the findings and recommendations noted in the Appendix, all audited counties complied with the requirements for the apportionment and allocation of property tax revenues.

Background

After the passage of Proposition 13 in 1978, the California State Legislature enacted new methods for allocating and apportioning property tax revenues to local government agencies and public schools. The main objective was to provide local agencies with a property tax base that would grow as assessed property values increase. These methods have been further refined in subsequent laws passed by the Legislature.

One key law was Assembly Bill 8, which established the method of allocating property taxes for fiscal year 1979-80 (base year) and subsequent fiscal years. The methodology is commonly referred to as the AB 8 process or the AB 8 system.

Property tax revenues that local governments receive each fiscal year are based on the amount received the prior year plus a share of the property tax growth within their boundaries. Property tax revenues are then apportioned and allocated to local agencies and schools using prescribed formulas and methods defined in the *Revenue and Taxation Code*.

The AB 8 process involved several steps, including the transfer of revenues from schools to local agencies and the development of the tax rate area annual tax increment growth factors (ATI factors), which determine the amount of property tax revenues allocated to each entity (local agency and school). The total amount allocated to each entity is then divided by the total amount to be allocated to all entities to determine the AB 8 factor (percentage share) for each entity for the year. The AB 8 factors are computed each year for all entities using the revenue amounts established in the prior year. These amounts are adjusted for growth annually using ATI factors.

Subsequent legislation has removed revenues generated by unitary and operating nonunitary property from the AB 8 system. This revenue is now allocated and apportioned under a separate system.

Other legislation established an Educational Revenue Augmentation Fund (ERAF) in each county. Most local government agencies are required to transfer a portion of their property tax revenues to the ERAF. The fund is subsequently

allocated and apportioned by the county auditor according to instructions received from the local superintendent of schools or chancellor of community colleges.

Taxable property includes land, improvements, and other properties that are accounted for on the property tax rolls, which are primarily maintained by the county assessor. Tax rolls contain an entry for each parcel of land, including parcel number, owner's name, and value. The types of property tax rolls are:

- *Secured Roll* — Property that, in the opinion of the assessor, has sufficient value to guarantee payment of the tax levies and that, if unpaid, can be satisfied by the sale of the property by the tax collector.
- *Unsecured Roll* — Property that, in the opinion of the assessor, does not constitute sufficient “permanence” or have other intrinsic qualities to guarantee payment of taxes levied against it.
- *State-Assessed Roll* — Utility properties, composed of unitary and nonunitary value, assessed by the State Board of Equalization.
- *Supplemental Roll* — Property that has been reassessed due to a change in ownership or the completion of new construction, where the resulting change in assessed value is not reflected in other tax rolls.

Audit Program

The property tax audit program began on July 1, 1986, under *Revenue and Taxation Code* Section 95.6 (now *Government Code* Section 12468). The statute mandates that the State Controller periodically perform audits of the allocation and apportionment of property tax revenues by counties and make specific recommendations to counties concerning their property tax administration. However, the State Controller's authority to compel resolution of its audit findings is limited to those findings involving an overpayment of state funds.

Overpayment of state general fund money is recoverable by the State under several provisions of law (e.g., *Education Code* Section 42237.7 et seq., and *Government Code* Section 12420 et seq.). In addition, the State Controller has broad authority to recover overpayments made from the State Treasury. If an audit finds overpayment of state funds, and the state agency that made or authorized the payment does not seek repayment, the Controller's Office is authorized to pursue recovery through a variety of means (e.g., *Government Code* Sections 12418 and 12419.5). The specific remedy employed by the Controller's Office depends on the facts and circumstances of each situation.

In order to carry out the mandated duties of the State Controller, the Controller's Office developed and implemented a comprehensive audit program that includes, but is not limited to, a detailed analysis of past and current requirements of property tax laws and an examination of property tax records, processes, and systems at the county level.

The Controller's Office property tax apportionment audits have identified and aided in the correction of property tax underpayments to public schools. The underallocation of property taxes by individual counties to their public schools results in a corresponding overpayment of state funds to those schools by the

same amount. This, in turn, causes public schools in other counties to receive less state funding since the total funds available are limited. Subsequent legislation forgave some counties for underpayments to schools without requiring repayment or assessment of penalties. However, the legislation required that the cause of the underallocations, as identified by the audits, be corrected.

Audit Scope

Each audit encompasses an evaluation of a county's property tax apportionment methodology, allocation procedures, and compliance with applicable laws and regulations. The auditors used procedures considered necessary to provide a basis for reporting on the areas examined. In conducting the audits, the auditors focused on the following areas to determine if:

- The apportionment and allocation of annual tax increments was in accordance with *Revenue and Taxation Code* Sections 96-96.5;
- The methodology for redevelopment agencies' base-year calculations and apportionment and allocation of annual tax increments was in accordance with *Revenue and Taxation Code* Sections 96.4 and 96.6 and *Health and Safety Code* Sections 33670 through 33679;
- The effect of jurisdictional changes on base-year tax revenues and annual tax increments was in accordance with *Revenue and Taxation Code* Section 99;
- The apportionment and allocation of property tax revenues from supplemental assessments was in accordance with *Revenue and Taxation Code* Sections 75.60 through 75.71;
- The apportionment and allocation of state-assessed unitary and operating nonunitary property taxes was in accordance with *Revenue and Taxation Code* Section 100;
- The computation and apportionment of property tax revenues to low- and no-tax cities was in accordance with *Revenue and Taxation Code* Section 98;
- The computation and collection of local jurisdictions' property tax administrative costs was in accordance with *Revenue and Taxation Code* Sections 95.2 and 95.3;
- The computation and apportionment of property tax revenues to the ERAF was in accordance with *Revenue and Taxation Code* Sections 97 through 97.3; and
- For eligible counties, the computation of the county credit against the county's ERAF shift was in accordance with *Revenue and Taxation Code* Sections 97.3(a)(5) and 97.36.

Conclusion

The State Controller's Office believes that the property tax allocation and apportionment system is generally operating as intended. In the interest of efficiency and cost control for both the counties and the State, the summary findings and recommendations in this report are submitted to assist in initiating changes that will help improve the system.

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Summary of Findings and Recommendations

Except for the findings and recommendations noted in the Appendix, the audit reports issued in 2000 indicated that the counties complied with the legal requirements for the apportionment and allocation of property tax revenues. However, problem areas were identified. The problems are described below. Recommendations to resolve the problems are included with the individual county findings in the Appendix.

Unresolved Prior Audit Findings

As part of the audit process, auditors review the prior audit report to determine issues that may require follow-up. Procedures are undertaken to determine whether previously noted findings have been resolved. Unresolved prior audit findings are restated in the current audit.

The Controller's Office restated findings for three counties with unresolved prior audit findings.

Computation of Annual Tax Increment Factors

The *Revenue and Taxation Code* requires that each jurisdiction in a tax rate area (TRA) be allocated property tax revenues in an amount equal to the property tax revenues it was allocated in the prior fiscal year. The difference between this amount and the total amount of property tax assessed in the current year is known as the annual tax increment. The computation of the annual tax increment results in a percentage that is used to allocate growth in assessed valuation to local government jurisdictions and schools in a county from the base year forward. *Revenue and Taxation Code* Sections 96 through 96.5 prescribe this methodology. (Some exceptions to this allocation are contained in the *Revenue and Taxation Code* for specified TRAs.)

The Controller's Office noted findings for two counties for this area. One county excluded nonoperating nonunitary assessed values in the computation of annual tax increment. The other county's tax increment system incorrectly and inconsistently computed decrement (negative increment).

Jurisdictional Changes

Revenue and Taxation Code Section 99 prescribes the procedures required to make adjustments for the apportionment and allocation of property taxes resulting from changes in jurisdictional controls or changes in responsibilities of local government agencies and schools. The statute requires specific documentation that takes into consideration services and responsibilities when changes occur.

The Controller's Office noted a finding in one county for this area. The county inappropriately transferred ATI factors from school entities to local agencies.

Supplemental Property Tax Apportionments

When a revaluation of property occurs during the fiscal year due to changes in ownership or completion of new construction, supplemental taxes are usually levied on the property. *Revenue and Taxation Code* Sections 75.70, 75.71, and 100.2 provide for the apportionment and allocation of these supplemental taxes.

The Controller's Office noted findings for two counties for this area. One county did not include the ERAF in the computation of the supplemental

property tax apportionments. The finding was withdrawn when the California Legislature subsequently validated the county methodology for all fiscal years through fiscal year 1999-2000. The other county used incorrect ADA figures when allocating supplemental property taxes to K-12 schools.

Supplemental Property Tax Administrative Fees

Counties, upon the adoption of a method identifying the actual administrative costs associated with the supplemental roll, are allowed to charge an administrative fee for supplemental property tax collections. This fee is not to exceed 5% of the supplemental taxes collected.

The Controller's Office noted a finding in one county for this area. The county computed the 5% supplemental cost reimbursement on gross collections including penalties and costs.

Redevelopment Agencies

The legal requirements for the apportionment and allocation of property tax to redevelopment agencies are found in *Revenue and Taxation Code* Sections 96.4 and 96.6 and *Health and Safety Code* Sections 33670 through 33679. California community redevelopment law entitles a community redevelopment agency to all of the property tax revenue realized from growth in values since the redevelopment project's inception, with specified exceptions.

The Controller's Office noted findings for two counties for this area. One county inappropriately apportioned taxes to redevelopment agencies for bonds approved after January 1, 1989. The other county used tax rate equivalents to compute RDA revenues but used 1% tax rates for computing TRA revenues.

Unitary and Operating Nonunitary Property Taxes

The process for allocating and apportioning property taxes from certain railroad and utility companies functions through the unitary and operating nonunitary tax system employed by the State Board of Equalization. Unitary properties are those properties on which the Board of Equalization "may apply the principle of unit valuation in valuing properties of an assessee that are operated as a unit in the primary function of the assessee" (i.e., public utilities and railroads). The *Revenue and Taxation Code* further states, "Operating nonunitary properties are those that the assessee and its regulatory agency consider to be operating as a unit, but the board considers not part of the unit in the primary function of the assessee." *Revenue and Taxation Code* Section 100 prescribes the procedures required to allocate unitary and operating nonunitary property taxes beginning in fiscal year 1988-89.

The Controller's Office issued findings for four counties in this area:

- One county included nonoperating nonunitary assessed values in the computation of the annual unitary and operating unitary apportionment.
- Two counties did not include the ERAF in the apportionment and allocation of unitary and operating nonunitary property taxes when the property tax value increased by more than 2% from one year to the next.
- One county incorrectly added the unitary and operating nonunitary gross levy to the AB 8 system before adjustments for RDA pass-throughs, jurisdictional changes, and the ERAF shift.

Property Tax Administrative Fees

Counties are allowed to collect from each appropriate jurisdiction that jurisdiction's share of the cost of assessing, collecting, and apportioning property taxes. *Revenue and Taxation Code* Section 95.3 prescribes the requirements for computing and allocating property tax administrative fees. The assessor, tax collector, and auditor generally incur county property tax administrative costs. The county is generally allowed to be reimbursed for these costs.

The Controller's Office noted a finding in one county for this area. The county did not include all revenue offsets when computing property tax administrative charges.

Educational Revenue Augmentation Fund

The legal requirements for the local agency shift of property tax revenues to the ERAF are found in *Revenue and Taxation Code* Sections 97 through 97.3. Beginning in fiscal year 1992-93, each local agency was required to shift an amount of property tax revenues to the ERAF using formulas prescribed by the *Revenue and Taxation Code*. The property tax revenues in the ERAF are subsequently allocated to schools and community colleges using factors supplied by the county superintendent of schools or chancellor of the California community colleges.

Since the passage of the ERAF shift requirements, numerous bills have been enacted that affect the shift requirements for various local government agencies. One bill of particular interest was AB 1589 (Chapter 290, Statutes of 1997). This bill primarily addressed three areas related to the ERAF shift: (1) ERAF shift requirements for certain county fire funds for fiscal year 1992-93 (*Revenue and Taxation Code* Section 97.2(c)(4)(B)); (2) a special provision for counties of the second class when computing the ERAF shift amount for county fire funds in fiscal year 1993-94 (*Revenue and Taxation Code* Section 97.3(c)(4)(A)(I)); and (3) ERAF shift requirements for county libraries for fiscal year 1994-95 and subsequent years. After the passage of AB 1589, the State Controller requested advice from the California Attorney General regarding the application of Chapter 290. The Attorney General responded in May 1998.

The Attorney General advised that the amendment to *Revenue and Taxation Code* Section 97.2(c)(4)(B) significantly narrowed the scope of the exemption granted by the code section and was to be given retroactive application. The result is that many counties and special fire protection districts that were able to claim an exemption under the section as it formerly read lost the exemption retroactive to fiscal year 1992-93. Consequently, those counties and special districts were required to shift additional funds to the county ERAF.

In response to the advice by the Attorney General, and noting the severe fiscal impact the loss of the exemption would have on local government agencies, the State Controller recommended that legislation be considered to restore the exemption previously granted to fire protection districts and county fire funds that was lost as a result of Chapter 290. Subsequently, the Legislature enacted AB 417 (Chapter 464, Statutes of 1999), restoring the exemption to fire districts that had been lost after the passage of Chapter 290, Statutes of 1997.

The Controller's Office issued findings for six counties in this area. Two counties had more than one finding:

- One county did not adjust the per capita shift amount as required by the *Revenue and Taxation Code*.
- One county did not properly carry forward fiscal year 1992-93 and fiscal year 1993-94 ERAF shift amounts to subsequent fiscal years.
- One county did not properly adjust the per capita shift amount and did not properly compute the ERAF shift growth amount.
- One county did not adjust the county's and cities' per capita shift amount for growth and did not make the required disaster adjustment to the ERAF.
- One county did not make the required disaster adjustment to the ERAF.
- One county incorrectly computed the disaster relief adjustment.

ERAF Shift Credit

Revenue and Taxation Code Sections 97.3(a)(5) and 97.36 allow a credit against the county's required ERAF shift. Counties that first implement the alternative procedure for the distribution of property tax revenues authorized by Chapter 2 (commencing with Section 4701) of Part 8 during fiscal year 1993-94, or a subsequent fiscal year, are allowed a credit against their required ERAF shift. The credit is limited to the amount of any increased revenues allocated to a "qualifying school entity" that would not have been allocated but for the implementation of the alternative procedure.

For purposes of determining the ERAF shift credit, the Legislature defined a qualifying school entity as a "school district, county office of education, or community college district that is not an excess tax school entity as defined in Section 95.1" (*Revenue and Taxation Code* Section 97.3[a][5]). Most counties, when computing the credit, instead used the definition of "school entity" contained in Section 95(f), which included the ERAF. The inclusion of the ERAF in the credit computation, in some instances, dramatically increased the credit. The State Controller's legal counsel opined that counties must use the definition of qualifying school entity when computing the credit. Noting the severe fiscal impact of this situation on many counties, the State Controller delayed proceeding on this matter until legislation could be introduced to revise the definition of qualifying school entity. The Legislature subsequently enacted AB 838 (Chapter 649, Statutes of 1999), which included the ERAF as a qualifying school entity.

Chapter 649 also contained a special provision for counties of the sixteenth class. This provision allowed counties of the sixteenth class to compute the amount of the shift credit based upon their historical method of allocating property taxes.

The Controller's Office issued findings for two counties in this area:

- One county did not completely document the additional revenue received by school entities and then failed to collect the credit.
- The other county used an improper date when computing the ERAF shift credit amount resulting in an overstatement of the credit amount.

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Appendix — Findings of Individual County Audits

The findings and recommendations included in this appendix are presented as they were stated in the County Property Tax Apportionment and Allocation reports issued by the State Controller's Office (SCO) in calendar year 2000. Unless otherwise indicated, the counties agreed with the findings and recommendations. The findings and recommendations listed below are solely for the information and use of the California Legislature, the respective counties, the Department of Finance, and the SCO, and are not intended to be and should not be used by anyone other than those specified parties. This restriction is not intended to limit distribution of this report or the respective audit reports, which are a matter of public record.

Alpine County (July 1, 1994 — June 30, 1999)

FINDING — Educational Revenue Augmentation Fund

The county incorrectly computed the ERAF shift from fiscal year (FY) 1994-95 through FY 1998-99. In FY 1993-94, the per capita shift was not adjusted as required by *Revenue and Taxation Code* Section 97.2. In addition, the ERAF shift growth was incorrectly computed. Consequently, the errors resulted in increased contributions by the county general fund and County Service Area #1 for all subsequent years.

Requirements for the local agency shift of property tax revenues to the ERAF are generally found in *Revenue and Taxation Code* Sections 97.1 through 97.3. Beginning in FY 1992-93, each local agency was generally required to shift an amount of property tax revenues to the ERAF using formulas detailed in the code. The property tax revenues in the ERAF are subsequently allocated to the public schools using factors supplied by the county superintendent of schools.

Comment

During the audit field work, the county corrected the ERAF shift computation by retroactively adjusting the amount, beginning with FY 1993-94. Therefore, no further corrective action is necessary.

Marin County (July 1, 1995 — June 30, 1998)

FINDING 1 — Supplemental property tax

The ERAF is not included in the computation of supplemental property tax apportionments. Based on an opinion issued by the SCO legal office, the ERAF is to be apportioned a share of supplemental taxes based upon the ERAF proportional share of the regular secured property tax apportionments.

**(Finding withdrawn
due to passage of
Chapter 611,
Statutes of 2000)**

The legal requirements for supplemental roll property tax apportionment and allocation are found in *Revenue and Taxation Code* Sections 75.60 through 75.71 and 100.2. When there is a change in assessed property value due to changes in ownership or completion of new construction, the property owner is charged a supplemental property tax. This process enables the counties to retroactively tax property to the period when changes in ownership or completion of new construction occurred, rather than at the time the secured roll is developed.

Recommendation

The county should include the ERAF in the apportionment of supplemental property taxes.

Auditee's Response

Relative to Finding 1, we believe we allocated supplemental tax revenue properly and in accordance with law. These allocations were based on our good faith interpretation of relevant statutory authority, reliance on our counsel's opinion and without the timely opportunity to review your counsel's opinion. As discussed with you, in order to avoid time consuming and expensive litigation in this matter, I propose to make adjustments to the Supplemental AB8 allocation factors beginning in FY 2000-2001. In effect, this would prospectively adjust the Supplemental/ERAF tax revenue issue. It is my understanding that you would concur in this approach and that it has been past practice for your office to resolve other tax allocation matters in this manner.

Auditor's Comment

The SCO Chief Counsel has reviewed the county counsel's opinion and has reaffirmed the SCO position that supplemental property tax revenues are subject to the ERAF shift.

The SCO will review the county's implementation of the recommendation during the next audit of Marin County's property tax allocation system.

**FINDING 2 —
Unitary and
operating
nonunitary
apportionment**

The unitary and operating nonunitary property tax value increased by greater than 102% in FY 1997-98, and all jurisdictions except the ERAF were included in the excess of 2% increase. Though the impact of this oversight is minimal, since revenues are carried forward to each subsequent year, a correction is deemed necessary.

Requirements for the apportionment and allocation of unitary and operating nonunitary property taxes are found in *Revenue and Taxation Code* Section 100.

Unitary properties are those properties on which the Board of Equalization "may apply the principle of unit valuation in valuing properties of an assessee that are operated as a unit in the primary function of the assessee" (i.e., public utilities and railroads). The *Revenue and Taxation Code* further states, "Operating nonunitary properties are those that the assessee and its regulatory agency consider to be operating as a unit, but the board considers not part of the unit in the primary function of the assessee."

Recommendation

The county should recompute the unitary and operating nonunitary property tax base to include the ERAF.

Auditee's Response

Relative to Finding 2, we agree with the Auditors comment and have made the necessary adjustments to reflect the proper allocation of unitary and operating non-unitary property taxes.

Modoc County (July 1, 1994 — June 30, 1999)

**FINDING 1 —
Resolution of
prior audit
findings**

Findings noted in the prior audit, dated December 17, 1996, except as discussed below, have been satisfactorily resolved by the county. In the previous audit, the SCO determined that documentation was unavailable to support the 5% administrative charge imposed by the county pursuant to *Revenue and Taxation Code* Section 75.60 for supplemental property tax revenue collections. The county provided supporting documentation for FY 1995-96, but no documentation was provided for FY 1996-97 through FY 1998-99.

Recommendation

The county should adopt a method to identify and document the actual administrative costs of billing and collecting supplemental property taxes.

Auditee's Response

The County of Modoc has instituted an approved method for identifying the administrative and billing costs associated with supplemental property taxes as recommended by Moises Laurel, Audit Specialist during his audit. We thought we had provided documentation to him at that time. We followed his recommendation and can provide documentation in support of this claim if you so desire.

**FINDING 2 —
Calculation and
distribution of
ATI**

The county excluded nonoperating nonunitary assessed values in the computation of annual tax increment for five fiscal years, FY 1994-95 through FY 1998-99.

Requirements for the apportionment and allocation of the annual tax increment (ATI) are found in *Revenue and Taxation Code* Sections 96 through 96.5. The annual increment of property tax, which is the change in assessed value from one year to the next, is allocated to Tax Rate Areas (TRAs) on the basis of each TRA's share of the incremental growth in assessed valuations. The tax increment is then multiplied by the jurisdiction's annual tax increment apportionment factors for each TRA. These factors were developed in the 1979-80 base year and are adjusted for jurisdictional changes. The tax increment is then added to the tax computed for the prior fiscal year to develop the apportionment for the current fiscal year.

Recommendation

During the audit field work, the county corrected the annual tax increment computation for use in the FY 1999-2000 AB 8 apportionment process. No further corrective action is necessary.

**FINDING 3 —
Supplemental
property tax —
administrative
costs**

The county based its 5% supplemental administrative cost reimbursement on gross collections rather than gross collections less penalties and costs.

Revenue and Taxation Code Section 75.60 allows a county to charge an administrative fee for supplemental property tax collections. This fee is not to exceed 5% of the supplemental property taxes collected.

Recommendation

During the audit field work, the county corrected the formula in computing the 5% supplemental administrative cost reimbursement for use in FY 1999-2000. No further corrective action is necessary.

**FINDING 4 —
Unitary and
operating
nonunitary
apportionment**

The county included nonoperating nonunitary assessed values in the computation of the annual unitary and operating nonunitary apportionment for five fiscal years, FY 1994-95 through FY 1998-99.

Requirements for the apportionment and allocation of unitary and operating nonunitary property taxes are found in *Revenue and Taxation Code* Section 100.

Unitary properties are those properties on which the Board of Equalization “may apply the principle of unit valuation in valuing properties of an assessee that are operated as a unit in the primary function of the assessee” (i.e., public utilities and railroads). The *Revenue and Taxation Code* further states, “Operating nonunitary properties are those that the assessee and its regulatory agency consider to be operating as a unit, but the board considers not part of the unit in the primary function of the assessee.”

Recommendation

During the audit field work, the county corrected the unitary and operating nonunitary assessed values for use in the FY 1999-2000 apportionment process. No further corrective action is necessary.

**FINDING 5 —
Property tax
administrative
costs**

The county did not include all required revenue offsets within the property tax administrative cost recovery calculations. The two items omitted were the supplemental property tax 5% administrative fee and the special assessment collection administrative fee.

Requirements for the reimbursement of county property tax administrative costs are found in *Revenue and Taxation Code* Section 95.3. County property tax administrative costs are incurred by the assessor, tax collector, assessment appeals board, and auditor. The county is allowed, depending on the fiscal year and any corresponding exclusions, to be reimbursed by local agencies and public schools for these administrative costs.

Recommendation

During the audit field work, the county corrected the property tax administrative cost recovery calculations for use in the FY 1999-2000 allocation process. No further corrective action is necessary.

FINDING 6 — Educational Revenue Augmentation Fund

In FY 1993-94 and FY 1994-95, the per capita shift was not adjusted as required by *Revenue and Taxation Code* Section 97.2, which resulted in increased contributions by the county general fund and the City of Alturas.

Requirements for the local agency shift of property tax revenues to the ERAF are generally found in *Revenue and Taxation Code* Sections 97.1 through 97.3. Beginning in FY 1992-93, each local agency was generally required to shift an amount of property tax revenues to the ERAF using formulas detailed in the code. The property tax revenues in the ERAF are subsequently allocated to the public schools using factors supplied by the county superintendent of schools.

Recommendation

During the audit field work, the county corrected the ERAF shift computation by retroactively adjusting the amount beginning with FY 1993-94. No further corrective action is necessary.

Orange County (July 1, 1995 — June 30, 1999)

FINDING 1— Resolution of prior audit findings

Findings noted in the prior audit, dated August 18, 1997, except as discussed below, have been satisfactorily resolved by the county.

In the previous audit, the SCO determined that the county did not apportion supplemental property taxes in a timely manner as required by the *Revenue and Taxation Code*. The county is still not in compliance as required under *Revenue & Taxation Code* Section 75.70(c)(7).

Recommendation

The county should adopt a procedure to ensure that supplemental taxes are apportioned within the timeframe required by the statutes.

County Response

Concur. The county now apportions supplemental taxes as required under Revenue and Taxation Code 75.70(c)(7).

**FINDING 2 —
Redevelopment
agencies**

The county apportionment system for FY 1997-98 and FY 1998-99 distributed post-1989 bonds indebtedness to the RDAs. The requirement for apportioning bonds issued on or after January 1, 1989, is found in *Health and Safety Code* Section 33670(e) which states that no portion of any taxes levied to repay bond indebtedness approved by the voters after January 1, 1989, shall be allocated to any redevelopment project.

Recommendation

The county has reversed the error and is currently in the process of correcting the system. No further corrective action is necessary.

County Response

Concur. The county has reversed the error and corrected the system.

Plumas County (July 1, 1994 — June 30, 1999)

**FINDING 1 —
Jurisdictional
changes**

Two jurisdictional changes were noted that included the transfer of property tax increment factors from school entities to local agencies. Although the dollar impact of these transfers is minimal, *Revenue and Taxation Code* Section 99.02 specifically excludes the transfer of school property tax revenue to non-school agencies.

Subsequent to these changes, the Auditor-Controller requested and received an opinion from the County Counsel, which states that school property tax revenues cannot be reduced in this manner.

Recommendation

The county should make appropriate adjustments to restore the increment factors of all school entities to the previous values.

Auditee's Response

Auditor-Controller: Currently, our County Counsel is working with the state on this issue and will respond to you in a separate letter. Needless to say, we will do whatever the State decides.

County Counsel: It is the position of this office that the 1997/1998 tax exchanges are governed by Revenue and Taxation Code section 99.01, (Section 99.01), not 99.02 because these exchanges involved jurisdictional changes. Section 99.01 references Revenue and Taxation Code section 99, however neither section specifically prohibits schools from transferring property tax increment factors to local agencies.

Auditor's Comments

On March 14, 2000, the SCO Chief Counsel issued a legal opinion concurring with Finding 1 and disagreeing with the Plumas County Counsel. The finding remains as written.

FINDING 2 — Educational Revenue Augmentation Fund

The ERAF contributions for FY 1992-93 and FY 1993-94 were not carried forward properly into the FY 1994-95 and FY 1995-96 apportionment calculations, resulting in understated ERAF contributions for FY 1994-95 through FY 1998-99.

The county has recomputed the ERAF contributions through FY 1998-99. The recomputations properly reflect what the ERAF contributions should have been for the years of this audit. This issue will be reviewed for implementation in the next audit.

Requirements for the local agency shift of property tax revenues to the ERAF are generally found in *Revenue and Taxation Code* Sections 97.1 through 97.3. Beginning in FY 1992-93, each local agency was generally required to shift an amount of property tax revenues to the ERAF using formulas detailed in the code. The property tax revenues in the ERAF are subsequently allocated to the public schools using factors supplied by the county superintendent of schools.

Recommendation

The county should input the corrected ERAF contribution amounts for all years noted and deposit the underpaid amount to the ERAF.

Auditee's Response

We recomputed the property tax factors when the state auditor was here and implemented them for the 1999/2000 tax year. We will transfer the amount calculated at that time to the ERAF fund this year.

FINDING 3 — ERAF shift credit

The county implemented the alternate “teeter” apportionment process in FY 1993-94, but failed to completely document the amount of additional revenue received by school entities as specified in the statutes. The county also failed to collect the allowed credit from the ERAF for the additional revenue received by schools.

Revenue and Taxation Code Sections 97.3(a)(5) and 97.36 provide for a reduction in the amount of the ERAF contribution by a county when the county first implements the alternate method of property tax allocation authorized by *Revenue and Taxation Code*, Part 8, Chapter 2, commencing with Section 4701. This credit, available only for the first year of implementation, is computed based upon the amount of increased revenues allocated to a qualifying school entity that would not have been allocated if the county had not implemented the alternate method of

property tax allocation. A qualifying school entity is a school district, county office of education, or community college district that is not an excess tax school entity (i.e., an educational agency for which the state funding entitlement under specified sections of the *Education Code*, as appropriate, is zero).

Recommendation

The county is entitled to a payment from the ERAF, equal to the amount of additional secured property tax revenue received by school entities in FY 1993-94, as a result of implementing the alternate apportionment method.

Auditee's Response

We worked with the Property Tax Auditor and calculated the amount the ERAF Credit should have been during the audit. We will make that transfer this year at the same time we make the transfer for finding number two.

Sonoma County (July 1, 1996 — June 30, 1999)

FINDING — Educational Revenue Augmentation Fund

The disaster adjustment to the FY 1992-93 ERAF contribution for the county and cities had not been removed at the beginning of the 1997-1998 process year.

Revenue and Taxation Code Section 97.2(e) requires the counties and cities to increase their FY 1992-93 ERAF contribution amounts for FY 1997-98 and subsequent fiscal years to restore the disaster relief reduction allowed by *Revenue and Taxation Code* Sections 97.2(a)(b) and (b)(2).

Comment

The county has recomputed the County General Fund and cities' property tax apportionments for the 1997-98 and 1998-99 process years to include the reversal of the ERAF disaster adjustment. The computations appear correct, but since the implementation dates of the adjustments are beyond the scope of the audit, the computations are acknowledged here but will not be formally reviewed until the next audit.

Auditee's Response

The county acknowledges the error. A recomputation of the county general fund and cities' property tax apportionments for 1997-98 and 1998-99 were made to reflect the reversal of the ERAF disaster adjustment. These adjustments were implemented in 1999-00.

Stanislaus County (July 1, 1996 — June 30, 1999)

FINDING 1 — Calculation and distribution of ATI

In FY 1996-97, the county system computed decrement (negative increment) inaccurately. Sometimes the system overcomputed the amount and sometimes it undercomputed the amount. In FY 1997-98 and 1998-99, the county system consistently undercomputed decrement by \$.01 for each taxing jurisdiction in the TRA. The ability of the county system to accurately compute decrement is questioned. In addition, some TRAs with negative base revenues had corresponding positive assessed value or no assessed value. One of these TRAs in FY 1996-97 had decrement but the system did not compute it. It appears that the county is using different formulas for computing the annual tax increment in the TRA level resulting in noncompliance with the *California Revenue and Taxation Code* whereby a single formula must be used to compute annual tax increment.

The unitary and operating nonunitary gross levy is added to the AB 8 system before adjustments for RDA pass through, jurisdictional changes, and the ERAF shift.

Using the final apportionment factors to apportion/allocate supplemental property tax, redevelopment annual tax increments, unitary and operating nonunitary property tax, property tax administrative costs, and the ERAF shift, compounds the errors.

Due to the volume of information and multiple errors in the AB 8 system, the SCO was unable to determine the fiscal effect of the errors for FY 1996-97 through FY 1998-99.

Requirements for the apportionment and allocation of the annual tax increment (ATI) are found in *Revenue and Taxation Code* Sections 96 through 96.5. The annual increment of property tax, which is the change in assessed value from one year to the next, is allocated to TRAs on the basis of each TRA's share of the incremental growth in assessed valuations. The tax increment is then multiplied by the jurisdiction's annual tax increment apportionment factors for each TRA. These factors were developed in the 1979-80 base year and are adjusted for jurisdictional changes. The tax increment is then added to the tax computed for the prior fiscal year to develop the apportionment for the current fiscal year.

Recommendation

The county should recompute the AB 8 apportionment factors in accordance with *Revenue and Taxation Code* Section 96.5 and determine the fiscal effect of the errors for those fiscal years and correct the system as necessary.

Auditee's Response

With the exception of not segregating the unitary and operating nonunitary from the AB8 system, the County is substantially in compliance with the provisions of Revenue and Taxation Code 96.5 in its calculation and distribution of the annual tax increment.

The undercomputed decrement of \$.01 for each agency in a tax rate area was the result of a faulty computer rounding routine that has been corrected. The results from this rounding error are limited to the small number of tax rate areas that decrease in assessed valuation in any one given year and are not substantial enough to require recalculating.

To put this in perspective, assume for a moment that half (650) of the County's tax rate areas experienced a decrement. Assume that there are 15 affected agencies in each tax rate area. That means that the error would total \$97.50. The total tax charge for fiscal year 1995/1996 (the last year before this audit) was \$178,979,510. That means that the amount in error resulted in tax allocations being off by .0000545%.

In actuality, the amount of decrement tax rate areas is much less than half and most tax rate areas typically have 10 to 12 agencies, which makes the rounding error even less significant.

The County, as noted in the draft audit report, has some tax rate areas with negative tax allocations. This is the result of incorrect handling of value shifts/jurisdictional changes that occurred in the late 1970's and early 1980's.

In order to correctly allocate increment, the values and corresponding tax allocations associated with jurisdictional changes must be shifted from the old tax rate area to the new tax rate area. This allows for correct computation of the increment by adjusting last year's values for both the old and new tax rate areas. The County correctly transferred assessed valuations but transferred tax allocations based on one percent of the transferred value instead of calculating the percentage of value shifted and then shifting a corresponding percentage of the tax allocation.

The result of this error, again, is not as dramatic as it might initially seem. Most of the agencies affected are affected both positively and negatively in equal proportions. We will go back and research these value shift/jurisdictional changes and adjust the tax allocation for the few districts that are affected and correct the allocation error with journal entries.

The County does agree with the finding regarding unitary and operating nonunitary tax increment allocations and has gone back to the beginning of the of the [sic] countywide tax rate area for such property and has recalculated the tax increment allocations and made correcting entries. We also are redesigning our computer programs dealing with the tax increment allocations to ensure the proper allocation of unitary and non-operating unitary tax increment.

**FINDING 2 —
Supplemental
property tax**

In FY 1998-99, the county used the Second Period (July 1, 1998, through April 15, 1999) average daily attendance (ADA) figures rather than the annual ADA figures, required by *Revenue and Taxation Code* Section 75.70, to reallocate supplemental revenues to K-12 schools.

The legal requirements for supplemental roll property tax apportionment and allocation are found in *Revenue and Taxation Code* Sections 75.60 through 75.71 and 100.2. When there is a change in assessed property value due to changes in ownership or completion of new construction, the property owner is charged a supplemental property tax. This process enables the counties to retroactively tax property to the period when changes in ownership or completion of new construction occurred, rather than at the time the secured roll is developed.

Recommendation

The error was for FY 1998-99 only and appears to be immaterial. The county should establish a procedure to ensure the correct ADA figures are used to reallocate supplemental revenues to K-12 schools.

Auditee's Response

The County has taken measures to ensure that correct ADA figures will be used in future Supplemental Tax Apportionments.

**FINDING 3 —
Redevelopment
agencies**

The county uses equivalent tax rates to compute RDA revenues but uses the 1% tax rate for computing TRA revenues. Due to the volume of information, the SCO was unable to determine the exact fiscal effect of the errors.

The county apportioned property tax to the Modesto, Turlock, and Waterford RDAs even though these RDAs did not comply with the reporting requirements for statement of indebtedness. These RDAs did not comply as follows:

- Modesto and Turlock RDAs did not submit a separate report for each project during the audit period; and
- The Waterford RDA did not submit reports for FY 1997-98 and FY 1998-99.

Requirements for the apportionment and allocation of property tax to RDAs are found in *Revenue and Taxation Code* Sections 96.4 and 96.5. California Community Redevelopment Law generally entitles a community RDA to all of the property tax revenues that are realized from growth in values from the redevelopment project's inception. In addition, the SCO legal counsel has opined that decreases in value are not to be considered when computing growth for the project area.

Recommendation

The county should correct the methodology used in computing RDA revenues, compute the error difference, correct the system, and ensure that RDAs are in compliance with the reporting requirements for statement of indebtedness before allocating property tax revenues to them.

Auditee's Response

The County implemented proposition 13 under the provisions of SB189 and AB8. These provisions resulted in the allocation of taxes to tax rate areas at rates (equivalent tax rates) that differ from the 1% tax rate. The tax increment is allocated to tax rate areas by taking the difference in the tax rate area valuation from the prior year to the current year and multiplying it times the tax rate (usually 1%). Over an indefinite period of time, this practice will eventually lead to a condition where the assessed valuation of the tax rate area times the tax rate for the tax rate area will be equal to the taxes allocated to that tax rate area. Our practice for tax rate areas that are part of redevelopment agency project areas is no different (See R&T 96.6(a)) and we believe there is no code section to indicate that our practice is in error.

The City of Modesto and the City of Turlock maintain that although they have two separate areas with two different base years and base year allocations, that they only have one project and hence only file one statement of indebtedness for that project.

The City of Waterford has been notified that until they submit the missing and current statements of indebtedness, they will not receive redevelopment increment from their project.

Auditor's Comment

Though the differences sampled were not substantial, it was noted that increment is computed differently in TRAs with and without RDAs. The SCO believes that it is inconsistent with the controlling statutes to use different increment computation methodologies for TRAs depending upon whether the TRAs are or are not within a redevelopment project area.

**FINDING 4 —
Unitary and operating
nonunitary
apportionment**

The county did not correctly compute the unitary and operating nonunitary apportionment factors during the audit period. The county incorrectly added the unitary and operating nonunitary gross levy to the AB 8 system before adjustments for RDA pass through, jurisdictional changes, and ERAF shift.

Requirements for the apportionment and allocation of unitary and operating nonunitary property taxes are found in *Revenue and Taxation Code* Section 100.

Unitary properties are those properties on which the Board of Equalization “may apply the principle of unit valuation in valuing

properties of an assessee that are operated as a unit in the primary function of the assessee” (i.e., public utilities and railroads). The *Revenue and Taxation Code* further states, “Operating nonunitary properties are those that the assessee and its regulatory agency consider to be operating as a unit, but the board considers no part of the unit in the primary function of the assessee.”

In FY 1988-89, the Legislature established a separate system for apportioning and allocating the unitary and operating nonunitary property taxes. The unitary and operating nonunitary base year was established and formulas were developed to compute the distribution factors for the fiscal years that followed.

Recommendation

The county should compute the unitary and operating nonunitary apportionment factors in accordance with *Revenue and Taxation Code* Section 100, determine the fiscal effect of errors, and correct the system as necessary.

The unitary and operating nonunitary apportionment factors should be computed separately or should only be added to the final AB 8 system process.

Auditee’s Response

The county agrees that the unitary and operating nonunitary apportionment factors should be computed separately and combined AB8 tax allocation factors only at the very end of the procedure to calculate tax apportionment factors. We have gone back to fiscal year 1989/90 and segregated the allocation of unitary and operating nonunitary taxes and prepared correcting entries to account for changes in the allocation figures. We will also look at ERAF shifts and the effects of segregating unitary and operating nonunitary allocations upon those shifts and make adjustments if material changes have occurred.

The State Controller basically has found three findings affecting the AB8 allocation factors:

1. The county annual tax increment procedure had some rounding problems.
2. The allocated amount in a tax rate area was not equal to the product of the assessed valuation and the tax rate, and
3. The county did not segregate AB8 and unitary and nonoperating unitary taxes in computing tax allocation factors.

We agree that there were some minor rounding problems that we have corrected. It should be noted, however, that the tax rate area allocations in the County’s database are not the actual allocations of taxes, but rather the basis for computing percentages that are used to allocate tax collections. As long as proportional relationships between the taxing agencies are correctly maintained, the agencies will receive the correct amount of taxes from collections.

We do not agree with the State Controller's assertion that the tax allocations in tax rate areas should total the assessed valuation times the tax rate. SB189 and/or AB8 do not specifically state, nor infer that fact. AB8 provided for an increment procedure that over the course of time will lead to that condition, however we request that the State Controller point out in Revenue and Taxation Codes 95 through 100 provisions that this condition must exist before the increment procedures eventually cause this to happen.

The County agrees with the State Controller that allocations to the unitary and nonoperating unitary tax rate area were not correct. We will investigate to see if material differences in tax allocations have resulted in the tax rate area and in the amount of taxes shifted to the Education Revenue Augmentation Fund and make adjustments if necessary to correct those material differences.

Auditor's Comment

The SCO agrees that revenue does not always equal assessed valuation times that tax rate and acknowledges that the most important consideration is that the apportionment factors, as computed, properly reflect each jurisdiction's proportionate share of property tax revenue. Therefore, this comment has been removed from the audit report. The SCO will monitor the calculation in future audits to ensure consistent factor computations.

FINDING 5 — Educational Revenue Augmentation Fund

In FY 1997-98, the county incorrectly computed the disaster relief reinstatement amounts due to the ERAF from the county General Fund and the City of Ceres. The county General Fund reinstated \$70,779.50 instead of the correct amount of \$70,838.03. The City of Ceres reinstated \$18,291.86 instead of the correct amount of \$18,497.66.

Requirements for the local agency shift of property tax revenues to the ERAF are generally found in *Revenue and Taxation Code* Sections 97.1 through 97.3. Beginning in FY 1992-93, each local agency was generally required to shift an amount of property tax revenues to the ERAF using formulas detailed in the code. The property tax revenues in the ERAF are subsequently allocated to the public schools using factors supplied by the county superintendent of schools.

Recommendation

The county should correct the reinstatement amounts and adjust the ERAF shift accordingly.

Auditee's Response

The County concurs with this recommendation and will make the necessary adjustments to reflect the correct ERAF shift. These adjustments will include the correction of the base year of reinstatement and adjustment for each subsequent year.

Tehama County (July 1, 1994 — June 30, 1999)

FINDING 1 — Unitary and operating nonunitary apportionment

The county did not correctly allocate unitary and operating nonunitary property tax value increases of more than 2% between fiscal years. When the unitary and operating nonunitary property tax value increased by more than 2% for FY 1994-95, over the preceding fiscal year, the county included all taxing jurisdictions except the ERAF in the allocation computations for the excess above the 2%. This error resulted in an underallocation of property tax revenues to the ERAF in the amount of \$144,811. County staff indicated the error occurred because the county used an AB 8 property tax apportionment factor file prior to ERAF adjustments.

Requirements for the apportionment and allocation of unitary and operating nonunitary property taxes are found in *Revenue and Taxation Code* Section 100.

Unitary properties are those properties on which the Board of Equalization “may apply the principle of unit valuation in valuing properties of an assessee that are operated as a unit in the primary function of the assessee” (i.e., public utilities and railroads). The *Revenue and Taxation Code* further states, “Operating nonunitary properties are those that the assessee and its regulatory agency consider to be operating as a unit, but the board considers not part of the unit in the primary function of the assessee.”

In FY 1988-89, the Legislature established a separate system for apportioning and allocating the unitary and operating nonunitary property taxes. The unitary and operating nonunitary base year was established and formulas were developed to compute the distribution factors for the fiscal years that followed.

During FY 1999-2000, the county recomputed the unitary and operating nonunitary property tax apportionments for FY 1994-95 through FY 1999-2000 to include the ERAF. Since the recomputations were made and implemented outside the timeframe of this audit, the recomputed amounts were not reviewed by the auditor, but will be subject to review during the next audit.

The county did not adjust the actual payments to jurisdictions for the period of July 1, 1994, through June 30, 1999. Instead, the county has proposed to implement the recomputed amounts starting in FY 1999-2000.

Recommendation

The county should ensure that procedures are established and adhered to which require unitary and operating nonunitary property tax value increases of more than 2% between fiscal years to be allocated among all taxing jurisdictions, including taxing jurisdictions not previously included in the allocation process.

**FINDING 2 —
Educational
Revenue
Augmentation
Fund**

The county did not adjust the county's and cities' per capita shift amount for growth for the period of July 1, 1994, through June 30, 1999, resulting in an undershift to the ERAF of \$30,135. In addition, the county did not reverse the allowed disaster relief adjustment to the FY 1992-93 ERAF shift amounts at the beginning of FY 1997-98, resulting in an undershift to the ERAF of \$47,179.

Requirements for the local agency shift of property tax revenues to the ERAF are generally found in *Revenue and Taxation Code* Sections 97.1 through 97.3. Beginning in FY 1992-93, each local agency was generally required to shift an amount of property tax revenues to the ERAF using formulas detailed in the code. The property tax revenues in the ERAF are subsequently allocated to the public schools using factors supplied by the county superintendent of schools.

Revenue and Taxation Code Section 97.1 provided for a per capita reduction in the amount of property tax revenues allocated to cities and counties during FY 1993-94. *Revenue and Taxation Code* Section 97.3 (d)(5) made those reductions permanent, subject to *Revenue and Taxation Code* Section 96.1 and the computation of growth on shift amounts. The error occurred because the County Auditor-Controller believed the per capita shift amounts were to remain constant.

Revenue and Taxation Code Sections 97.2(a)(2) and (b)(2) allowed a disaster relief reduction in FY 1992-93 ERAF shift amounts for cities and counties. The county did not remove this disaster relief adjustment for FY 1997-98 as required by *Revenue and Taxation Code* Section 97.2(e). The error occurred because the County Auditor-Controller forgot that this adjustment had been made in FY 1992-93 and subsequently needed to be reversed for FY 1997-98.

The county has recomputed the property tax apportionments through FY 1999-2000 to include per capita shift growth and the reversal of the disaster relief adjustments to the ERAF. Since the recomputations were made and implemented outside the timeframe of this audit, the recomputed amounts were not reviewed by the auditors, but will be subject to review during the next audit.

The county did not adjust the actual payments to all jurisdictions for the period of July 1, 1994, through June 30, 1999. Instead, the county has proposed to implement the recomputed amounts starting in FY 1999-2000.

Recommendation

The county should establish procedures to ensure that any future adjustments to ERAF shift requirements are implemented in a timely manner.

Ventura County (July 1, 1995 — June 30, 1999)

FINDING 1 — Unresolved prior audit findings relating to unitary and operating nonunitary apportionment

Findings noted in the prior SCO audit, dated December 13, 1996, except as discussed below, have been satisfactorily resolved by the county.

The county incorrectly computed the unitary and operating nonunitary base revenue for fiscal year (FY) 1988-89 and did not properly adjust the regular property tax apportionment process to reflect the removal of this revenue. These issues were noted in the prior audit but were not resolved.

Requirements for the apportionment and allocation of unitary and operating nonunitary property taxes are found in *Revenue and Taxation Code* Section 100.

Recommendation

The county must recompute the unitary and operating nonunitary property tax revenue for all years. The county must also make appropriate adjustments to the regular property tax system base revenue amounts for all jurisdictions in all affected tax rate areas.

County's Response

We agree with the audit finding and are in the process of implementation. We are currently recomputing the unitary and operating nonunitary property tax revenue. We will then make the appropriate adjustments to the regular property tax system base revenue for all jurisdictions in the affected tax rate areas. We hope to complete these corrections for the 2001-02 fiscal year.

FINDING 2 — ERAF shift credit

The county properly implemented the alternative apportionment process in FY 1993-94, but did not compute the ERAF credit adjustment from April 11, 1994, through June 30, 1994. The amount of revenue received by Ventura County from April 11, 1994, through June 30, 1994, that was attributable to school entities was \$6,959,558.

Revenue and Taxation Code Sections 97.3(a)(5) and 97.36 provide for a reduction in the amount of the ERAF contribution by a county when the county first implements the alternate method of property tax allocation authorized by *Revenue and Taxation Code*, Part 8, Chapter 2, commencing with Section 4701. This credit, available only for the first year of implementation, is computed based upon the amount of increased revenues allocated to a qualifying school entity that would not have been allocated if the county had not implemented the alternate method of property tax allocation. A qualifying school entity is a school district, county office of education, or community college district that is not an excess tax school entity (i.e., an educational agency for which the state funding entitlement under specified sections of the *Education Code*, as appropriate, is zero).

The county's method of determining the applicable ERAF shift credit was inconsistent with the statutory requirements for the computation of the credit because the county considered only collections through April 10, 1994. *Revenue and Taxation Code* Section 97.3(a)(5), states, in part, "...the amount of the reduction specified in paragraph (2) for any county or city and county that has first implemented, for the 1993-94 fiscal year, the alternative procedure...shall be reduced, for the 1993-94 fiscal year only, in the amount of any increased revenue allocated to each qualifying school entity that would not have been allocated for the 1993-94 fiscal year but for the implementation of that alternative procedure." The county, by excluding collections after April 10, 1994, omitted collections that were for FY 1993-94 but not paid until FY 1994-95, thus inappropriately increasing the amount of the computed credit.

Recommendation

The county must repay the excess shift credit of \$6,959,558 to the ERAF.

County's Response

We disagree with the audit finding. We believe that the Education Revenue Augmentation Fund (ERAF) shift credit that we calculated was correct based on the following:

Revenue and Taxation Code section 97.3(a)(5) states in part:

...the amount of the reduction specified in paragraph (2) for any county or city and county that has first implemented, for the 1993-94 fiscal year, the alternative procedure...shall be reduced for the 1993-94 fiscal year only, in the amount of any increased revenue allocated to each qualifying school entity that would not have been allocated for the 1993-94 fiscal year but for the implementation of the alternative procedure.

1. Ventura County did not change any procedure related to the allocation of current secured property tax. Our collection period ends April 10, and has always ended on April 10. The County did not influence the Teeter credit by altering allocation procedures. Rather, the County allocation procedures remained the same in 1993-94 as in prior years.
2. Ventura County Schools accounting procedure is on a cash basis only, not on an accrual basis, therefore the amount allocated was consistent with prior years' procedures.
3. For secured collections in fiscal year 1993-94, Schools was allocated a total of \$124,285,095, not including ERAF or the County Superintendent of Schools amounts. If the County of Ventura had not opted into the Teeter plan, Schools would have been allocated \$124,285,095, not including ERAF or the County of Superintendent of Schools amounts. Therefore, the amount of any increased revenue was properly allocated to the County.

4. No additional state allocations to Schools should have been required due to the County's implementation of Teeter.

SCO's Comments

According to Mr. Mahon, "Ventura County did not change any procedure related to the allocation of current secured property tax. [The county's] collection period ends April 10, and has always ended on April 10. The County did not influence the Teeter credit by altering allocation procedures. Rather, the County allocation procedures remained the same in 1993-94 as in prior years." These were the cut-off dates used in their Teeter plan buy-out credit for that year. Under that accounting treatment, Ventura County did not reduce its claimed credit against its ERAF contributions by the amount of delinquent taxes collected between the cut-off dates and June 30, 1994, which was available for distribution to schools.

The term "allocated" should be construed as having reference to tax revenues for schools attributable to FY 1993-94 collections. Regardless of whether such revenues had been disbursed to schools or remained in the County's treasury, the revenues reduced the amount of county funds needed for the FY 1993-94 buy-out and, in turn, reduced the County's ERAF credit.

If the Teeter buy-out credit provisions continuously applied each year, perhaps there would be an argument that the accounting cycle used by Ventura County substantially satisfied the objectives of the law; i.e., the figures would "even out" over a period of years.

However, the operation of *Revenue and Taxation Code* Section 97.3(a)(5), is restricted to a one-time credit for increased revenues allocated to schools for FY 1993-94. In essence, Ventura County's position on this issue substitutes two different fiscal years in place of FY 1993-94. The language of the statute reflects an intent that calculations be confined to FY 1993-94 for counties electing to claim the buy-out credit.

In effect, Ventura County did not follow the statute as enacted by the Legislature. The County was not required to claim the Teeter buy-out credit. If it elected to do so, it was required to compute the credit in accordance with the statute regardless of its existing accounting procedures. In brief, Ventura County was required to conform to the law rather than the law conforming to its selected accounting processes. The finding remains as written.

Copies of the audit reports referred to in this report may be obtained by contacting:

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